

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 21-20548

v.

Honorable Judith E. Levy

PHILLIP CAPE,

Defendant.

_____ /

**STIPULATION TO EXTEND PLEA CUTOFF/PRETRIAL CONFERENCE
AND TRIAL DATES AND REQUESTING
FINDING OF EXCLUDABLE DELAY**

THE PARTIES STIPULATE to continue dates in this case, as follows:

- (1) The final pretrial conference and plea cutoff date from October 12, 2021 at 10:30 a.m., to November 16, 2021 at 3:30 p.m.;
- (2) The trial date from October 25, 2021 at 8:30 a.m. to November 29, 2021 at 8:30 a.m.

THE PARTIES FURTHER STIPULATE, and jointly move for the Court to find that the time period from October 25, 2021 through and including November 29, 2021, qualifies as excludable delay under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), because the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial. The

parties' reasons for the continuance and for a finding of excludable delay are as follows:

1. On February 21, 2020, the Court signed a criminal complaint charging Phillip Cape with receipt of child pornography, under 18 U.S.C. § 2252A(a)(2) and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

2. On February 21, 2020, Cape appeared for his initial appearance, and consented to detention pending trial;

3. Counsel for the parties engaged in extensive pre-indictment plea negotiations in this matter;

4. On August 23, 2021, Cape was charged in an Information with attempted coercion and enticement of a minor, in violation of 18 U.S.C. § 2422(b);

5. On September 2, 2021, this Court entered a scheduling order in this case, setting the plea cutoff/pretrial conference for October 12, 2021 at 10:30 a.m., and the trial date for October 25, 2021 at 8:30 a.m.;

6. On September 27, 2021, counsel for the parties communicated via email. Counsel for the defendant indicated that she would need additional time meet in person with his to review discovery and discuss potential resolutions in this matter. The parties will also need additional time to conduct plea negotiations, based on those discussions.

7. Overall, a continuance of the date of the pretrial conference/plea cutoff, and the trial date is necessary to allow defense counsel additional time to conduct client consultation, and discuss the possibility of a plea agreement in this case. The ends of justice served by continuing the pretrial conference/plea cutoff, and trial dates outweigh the best interests of the public and defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

Accordingly, the parties request that this Honorable Court find that the ends of justice served by the granting of this continuance outweigh the best interests of the public and Defendant in a speedy trial, and agree to adjourn dates as indicated in this stipulation.

The parties also request that the Court make an ends of justice finding that the time period from October 25, 2021 to and including November 29, 2021, qualifies as excludable delay under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7).

IT IS SO STIPULATED.

/s/ Meghan Sweeney Bean
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Dated: September 27, 2021

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 21-20548

v.

Honorable Judith E. Levy

PHILLIP CAPE,

Defendant.

_____ /

**ORDER EXTENDING PLEA CUTOFF/PRETRIAL CONFERENCE
AND TRIAL DATES AND
FINDING OF EXCLUDABLE DELAY**

Having reviewed and considered the stipulation of the parties, and the Court,
having been fully advised by the respective parties;

IT IS HEREBY ORDERED that dates in this matter shall be adjourned and
continued, as follows:

- The final pretrial conference and plea cutoff date from October 12, 2021 at 10:30 a.m., to November 16, 2021 at 3:30 p.m.;
- The trial date from October 25, 2021 at 8:30 a.m. to November 29, 2021 at 8:30 a.m.

IT IS FURTHER ORDERED that the time period from October 25, 2021 to November 29, 2021, shall be deemed excludable delay under the provisions of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), and that the ends of justice served by

granting this continuance outweigh the best interests of the public and the defendants in a speedy trial. The Court does find that an ends of justice continuance is appropriate for the following reasons:

1. On February 21, 2020, the Court signed a criminal complaint charging Phillip Cape with receipt of child pornography, under 18 U.S.C. § 2252A(a)(2) and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

2. On February 21, 2020, Cape appeared for his initial appearance, and consented to detention pending trial;

3. Counsel for the parties engaged in extensive pre-indictment plea negotiations in this matter;

4. On August 23, 2021, Cape was charged in an Information with attempted coercion and enticement of a minor, in violation of 18 U.S.C. § 2422(b);

5. On September 2, 2021, this Court entered a scheduling order in this case, setting the plea cutoff/pretrial conference for October 12, 2021 at 10:30 a.m., and the trial date for October 25, 2021 at 8:30 a.m.;

6. On September 27, 2021, counsel for the parties communicated via email. Counsel for the defendant indicated that she would need additional time meet in person with his to review discovery and discuss potential resolutions in this matter. The parties will also need additional time to conduct plea negotiations, based on those discussions.

7. Overall, a continuance of the date of the pretrial conference/plea cutoff, and the trial date is necessary to allow defense counsel additional time to conduct client consultation, and discuss the possibility of a plea agreement in this case. The ends of justice served by continuing the pretrial conference/plea cutoff, and trial dates outweigh the best interests of the public and defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

The Court finds that an ends of justice continuance is necessary to allow defense counsel additional time to conduct client consultation, and discuss the possibility of a plea agreement in this case. The ends of justice served by continuing the pretrial conference/plea cutoff, and trial dates outweigh the best interests of the public and defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).

This order shall not affect any previous order of pretrial detention or pretrial release.

SO ORDERED.

Date: September 28, 2021

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge